Election Petition No.1 of 2004

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IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

Election Petition No.1 of 2004.
Date of Decision: 14.5.2007

Ms. Kiran Chaudhary .....Petitioner

Versus

Ajay Kumar Chautala & another .....Respondents

Coram: Hon'ble Mr.Justice M.M.Kumar.

Present: Mr.H.S.Hooda, Sr. Advocate with
Sh.Sumeet Goel, advocate for the petitioner.
Mr.Sukhbir Singh, Advocate for respondent No.1.

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M.M.Kumar (J)

This petition has been filed under Section 80, 80 A, 81 and 84 read with Sections 98, 100(1)(d)(iii) (iv) and under Section 101 (a) of the Representation of the People's Act 1951 with a prayer for declaring the election of the return candidates, respondents herein held on 2.8.2004 as void to the biennial election to the Council of the States (Rajya Sabha) from the State of Haryana on 28.6.2004. A further prayer has also been made for issuance of direction to declare the petitioner to be duly elected for the Council of States from the State of Haryana.

The petition is founded on the orders dated 25.6.2004 passed by the worthy Speaker of Haryana Legislative Assembly disqualifying six MLAs, namely, Bhim Sen Mehta, Jai Parkash Gupta, Rajinder Singh Bisla, Karan Singh, Jagjit Singh and Dev Raj Diwan. During the pendency of the petition an application was filed by the petitioner on which the following order was passed :-

Election Petition No.1 of 2004

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"C.M.No.6-E of 2005 in
E.P.No.1 of 2004.
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Present:- Mr.Sumeet Goel, Advocatge,
for the petitioner.
Mr.D.S.Nalwa, Advocate
Mr. Sukhbir Singh, Adv ocate.
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An application has been moved by Mrs. Kiran Chaudhary, petitioner praying that in view of the fact that six members of the Haryana State Legislative Assembly have filed six writ petitions in the Hon'ble Supreme Court bearing Nos.287, 290, 291, 292, 293 and 294 of 2004 challenging the disqualification order(s) passed by the Speaker of the Haryana Vidhan Sabha, wherein the following order has been passed:-

"Admitted.

Petitioners in all these petitions would continue to function as members of the Haryana State Legislative Assembly. Status as Members of Assembly is protected pending further orders. They will be permitted to draw all allowances and perquisites admissible as members of State Assembly. They are permitted to attend the proceedings of the Assembly but they shall not cast vote in any proceeding in Assembly including election as member of State Legislature.

The petitioners would be at liberty to mention for early hearing of the matter. Any action consequent upon the impugned order will be subject to the final order that may be passed."

and in view of the fact that the decision of this issue would have material bearing on the decision of the Election Petition, this Court may adjourn the hearing of the Election petition sine die granting liberty to the election petitioner to revive the same as and when the above mentioned writ petitions are decided.

To this being done, the learned counsel for the respondents have no objection. Accordingly, the Election Petition is adjourned sine die.

Sd/-
March 11, 2005 (Amar Dutt)
Judge."

Mr. Hawa Singh Hooda, learned Senior counsel for the petitioner states that the orders passed by the Speaker on 25.6.2004 were challenged before Hon'ble the Supreme Court in six separate petitions and those writ petitions have now been dismissed by a common order on 11.12.2006. The Judgment is now reported as Jagjit Singh Vs. State of Haryana (2006) SCC. It is thus evident that orders of the Speaker disqualifying the afore-mentioned six MLAs have been upheld by Hon'ble the Supreme Court.

In the aforementioned situation, Mr. Hooda states that the controversy in the Election Petition does not remain alive. Since, no cause of action survives the Election petition fails and the same is dismissed. No costs.

May 14, 2007 (M.M.Kumar)
tripti Judge.